

DABC Advisory Board member Peter Erickson's response to: Utah Legislature - Business and Labor Interim Committee request for feedback in email dated 6/24/13 from Bryant Howe to members of DABC Advisory Board.

HB0218S01

- (183) Intent to Order:
 - Assumption: the concern being addressed here is public safety and the benefits eating has on reducing the effects of alcohol consumption
 - Ratios: there is already a law requiring a minimum food to alcohol sale's ratio which operates on the aggregate level without making UT look so inhospitable, especially in the eyes of tourists. If a restaurant loses its focus on food, it will fail the ratio test. If there are some bad actors out there, please continue to work with the industry to figure out a way to weed them out without giving the whole industry a black eye. Restaurants want people to buy and eat food!
 - Over-serving and over-consumption: there are already other laws prohibiting over-serving and over-consumption as well as public intoxication and drunken driving. If you feel these are inadequate, put more bite into them rather than confusing the issue with the intent to order language.
 - Laws requiring a restaurant patron to have intent to *order* food are extremely hard to interpret by the licensee and enforce. Patrons often share food ordered by others in their party, e.g. adult children eating out with their parents or a couple sharing an appetizer. Is a server wrong to serve alcohol to everyone who eats the food, but isn't the one who ordered it?
 - Wouldn't it make more sense to require the licensee to notify the patron of the requirement to *eat* food and let the onus be on the patron to actually consume the food and the CBI to make sure they do?
 - If that is too Orwellian, can't we agree to assume that the patron's intent upon entering a restaurant is to eat, and let the ratio laws take care of the eating concern and over-serving laws take care of over-consumption concerns.

HB0228S01

- Removing the Zion curtain would go a long way to restoring normalcy to the state
 - Microbreweries and brewpubs are adding living wage jobs across the country
 - Dispensing the product out of taps and across bars is the normal course of business everywhere else in the country

- Having to tie-up a rare Club license in order to be able to do this isn't good for locals, tourism, or the state's budget
- I think our industry would be open to the idea of requiring minors to be accompanied by adults over 21 in order to be in a restaurant with a bar-structure that is not shrouded by a Zion curtain

HB0350

- My reservations about the idea of Beer Wholesalers:
 - Small breweries should not be required to use beer wholesalers, which means the state would have to remain in the business of distributing heavy-beer
 - Small breweries should be able to continue to self-distribute 3.2 beer as they have in the past
 - The law should add value to the supply chain by lowering costs or improving service, and does not just add another layer of cost
 - The law isn't written in a way that favors wholesalers at the expense of brewers, retailers, and consumers

SB0261

- (743) Clarify whether new owners can move the license to an entirely new location and still get exemptions
- (772) You should consider excluding 3.2 beer from ratio calculations in addition to excluding \$100+ bottles of wine
- At the end of 2012, we added a restaurant with a limited service restaurant license so that we could qualify to sell the heavy-beer we manufacture at the same facility on Sundays and Holidays. Did we want to be able to sell the beer we make on Sundays and Holidays? Yes. Did we want to open a limited service restaurant? No. Did the legislature want another facility offering alcohol for sale for on-site consumption? I doubt it. Did the legislature want to tie up a hard-to-get limited service license unnecessarily? Again, I doubt it. This can be corrected by dropping the restaurant requirement in lines 1013-1032.
- Clarify who is getting fined and suspended – server or licensee – in lines 1165-1182.
- Multiple retail licenses at same building starting at line 1225. Most brewpubs in UT operate with both a restaurant and club license. Brewpubs could operate under a single, full service restaurant if:
 - Lesson ratios to 60:40 from 70:30 and do away with the Zion curtain

- Again, I think the industry would agree to requiring minors to be accompanied by someone over 21
- (1367) It would be great to have tasters back in manufacturer's establishments.
 - Suggest you drop the language about "educational purposes" or at least define it.
 - If you think about it like the owner of a restaurant or the CBI has to, it would be practically impossible for server and licensee track and law enforcement to enforce the one set of containers per day requirement. Make it simpler – just don't let the total volume be more than that allowed for single servings.
- (1539) I assume you don't intend to prevent a patron from drinking while standing in an open room. If I'm wrong, do you intend to penalize the patrons themselves, as opposed to the server or licensee, for moving about the establishment with a cocktail in hand?

Transfer of retail licenses: my experience with turning state issued licenses into property rights comes from the brine shrimp industry.

- Before the Certificates of Registration (COR) became property rights, there were about 32 independent companies harvesting on the Great Salt Lake. Roughly a decade after the CORs were bestowed property rights, only *two* independent harvesters remain. I am concerned that doing something similar with retail liquor licenses will favor big chains at the expense of small, locally-owned, restaurants and bars.
- Before the change, CORs had \$0 value on a harvester's books. Afterward they were valued at upwards of \$500,000, while the fee the state collects remains the same. What is there in it for the public? What about the effect on small independent businesses?
- Assuming the goal is to provide access to licenses for out-of-state chains to move into the state and you will not consider increasing the existing quota of licenses, why not setup a separate pool of licenses for businesses that expect to need them in the future but are not ready to build within a year – the longer the term, the higher the price.

New retail license for certain larger hotels: I'd rather you create a new retail license for brewpubs than consider a new retail license for certain larger hotels. The brewpub license would be like a restaurant but 60:40, no Zion curtain, no kids without someone over 21, etc.